

OA 91 Criminal Complaint

## United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA  
V.**FILED**

CRIMINAL COMPLAINT

**WDB**

Jose Clemente Lopez-Padilla

APR X 3 2007

Case Number:

**4 · 07 - 70197**

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about January 19, 2007 in Contra Costa County, in the NORTHERN District of CALIFORNIA defendant(s) did,

(Track Statutory Language of Offense)

an alien having been previously deported from the United States, was found in Contra Costa County in the State and Northern District of California, without having obtained express consent for re-application for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557)

in violation of Title 8 United States Code, Section(s) 1326

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

Official Title

See Attached Affidavit incorporated herein by reference.

Maximum Penalties: 20 years imprisonment; \$250,000.00 fine; 3 years supervised release and \$100 special assessment.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved Bryan R. Whittaker  
As To  
Form: BRYAN R. WHITTAKER, Special Assistant U.S. Attorney  
AUSA

Cecyle Andrews, Deportation Officer ICE  
Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

4/3/07

at

San Francisco, California

City and State

EDWARD M. CHEN

U.S. Magistrate Judge

Name &amp; Title of Judicial Officer

Signature of Judicial Officer

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Cecyle J. Andrews, being duly sworn, do hereby state:

1. I am a Deportation Officer with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). I have been employed in this capacity since December 18, 1988.
2. I have reviewed the official Alien Registration File and the automated criminal records relating to Jose Clemente Lopez-Padilla ("Lopez"), which attest to the following:
  - a. Lopez is a thirty-three (33) year-old male, native and citizen of Mexico, who last entered the United States illegally by crossing the international border on an unknown date in 2004, at or near Nogales, Arizona, in an unknown manner, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.
  - b. Lopez's official Alien Registration File contains executed Warrants of Deportation indicating that Jose Clemente Lopez-Padilla was deported from the United States to Mexico through Nogales, Arizona on March 2, 1998 and August 23, 2001, and through Otay Mesa, California on March 6, 2004.
3. On January 19, 2007, Immigration and Customs Enforcement Officers encountered Lopez in Santa Rita County Jail pursuant to his arrest on unrelated charges. On that same date, an immigration detainer was lodged.

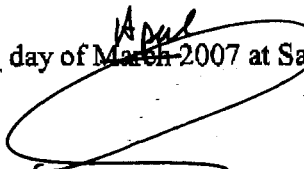
4. On March 9, 2007, Immigration Enforcement Officer Ken Porter interviewed Lopez at Santa Rita County Jail. Lopez provided a sworn statement in which he admitted that he was a citizen and national of Mexico, and that he had been previously deported to Mexico.
5. On March 29, 2007, a full set of rolled fingerprints belonging to Lopez were submitted to the Automated Fingerprint Identification Center ("AFIS") for verification of identity. The fingerprint examiner positively identified the fingerprints as belonging to the same Jose Clemente Lopez-Padilla who had previously been removed from the United States as referenced above in paragraph 2.
6. On March 22, 2007, Lopez was released to ICE's Lancaster Office in Southern California. Lopez's fingerprints and photos were submitted into the Auto Biometric Identification System ("IDENT"). IDENT information confirmed Lopez's identity.
7. There is no indication in the official files of the United States Department of Homeland Security that Lopez ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.

8. Based upon the facts described above, I believe that there is probable cause that the defendant, Jose Cemente Lopez-Padilla, having previously been deported from the United States, has been found in the United States without the required permission, and is in violation of Title 8, United States Code, Section 1326.



Cecyle J. Andrews  
Deportation Officer  
U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
San Francisco, California

Subscribed and sworn to before me this 3 day of <sup>April</sup> March 2007 at San Francisco, California.



Honorable Edward M. Chen  
United States Magistrate Judge  
Northern District of California  
San Francisco, California